

Robert A. Huntsman, ISB #5345

HUNTSMAN LAW GROUP, PLLC

10400 W. Overland Road, #174

Boise, ID 83709

Email: law2014@huntsmanlg.com

Telephone Number: (208) 860-4379

Attorney for the Plaintiff

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

BETTER FOOD CHOICES, LLC,

v.

MYNETDIARY, INC.,

MYFITNESSPAL, INC.,

WEIGHT WATCHERS
INTERNATIONAL, INC.,

WEIGHTWATCHERS.COM,
INC.,

AMAZON, INC.,

APPLE, INC.,

and

GOOGLE, INC.,

Defendants.

Case No. _____

COMPLAINT FOR PATENT
INFRINGEMENT

Plaintiff Better Food Choices, LLC (hereafter "Plaintiff") by way of Complaint against the above named Defendants MyNetDiary, Inc., MyFitnessPal, Inc., Weight Watchers International, Inc., WeightWatchers.com, Inc., Amazon, Inc., Apple, Inc., and Google Inc. (hereafter "each Defendant" individually and "Defendants" collectively), alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 et seq.

THE PARTIES

2. Plaintiff Better Food Choice, LLC is a duly organized Pennsylvania limited liability company with its principal place of business in Flourtown, Pennsylvania.

3. On information and belief, Defendant MyNetDiary, Inc. is a New Jersey corporation headquartered at 811 Church Road, Suite 105, Cherry Hill, New Jersey 08002.

4. On information and belief, Defendant MyFitnessPal, Inc. is a Delaware corporation headquartered at 525 Brannan, Ste 300, San Francisco, California 94017. MyFitnessPal, Inc. may be serviced through its registered agent, Michael Lee, also at 525 Brannan, Ste 300, San Francisco or through its registered agent in Delaware.

5. On information and belief, Defendant Weight Watchers, International, Inc. is a Virginia corporation, headquartered at 300 Jericho Quadrangle, Suite 350 Jericho, New York 11753.

6. On information and belief, Defendant WeightWatchers.com, Inc., is identified on the Weight Watchers website at <http://www.weightwatchers.com>, and is a wholly owned subsidiary of Weight Watchers, International, Inc., whose state of incorporation is not known.

7. On information and belief, Defendant Amazon, Inc. is Delaware Corporation

COMPLAINT- 2

headquartered at 410 Terry Ave. N., Seattle, Washington 98109. Amazon, Inc. may be served through its registered agent at Corporation Service Company, 2711 Centerville Rd Ste 400, Wilmington, Delaware 19808.

8. On information and belief, Defendant Google, Inc. is a Delaware corporation headquartered at 1600 Amphitheatre Parkway, Mountain View, California 94043. Google, Inc. may be served through its registered agent at Corporation Service Company, 211 East 7th Street Suite 620, Austin, Texas 78701.

9. On information and belief, Defendant Apple, Inc. is a California Corporation headquartered at 1 Infinite Loop, Cupertino, CA 95014.

JURISDICTION AND VENUE

10. This Court has personal jurisdiction of each Defendant because each Defendant transacts business through the United States, including the state of Idaho, sells, and continues to offer for sale its products in the State of Idaho.

11. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

12. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

13. Venue in this district is proper under 28 U.S.C. § 1391(c) and § 1400(b).

FACTUAL BACKGROUND

14. On November 24, 1998, U.S. Patent No. 5,841,115 (hereafter "the '115 patent"), entitled "Nutritional Information System for Shoppers" was duly and legally issued by the United States Patent and Trademark Office to the Plaintiff. A copy of the '115 patent is attached as Exhibit A.

15. The Plaintiff, Better Food Choices, Inc., is the assignee of record of the '115 patent.

CLAIM FOR RELIEF

Infringement of U.S. Patent No. 5,841,115 (35 U.S.C. § 271)

16. The allegations set forth in the foregoing paragraphs 1 through 14 are hereby re-alleged and incorporated herein by reference.

17. Upon information and belief, the Defendants have infringed one or more claims of the '115 patent in this judicial district and elsewhere by making, using, selling, and/or offering for sale services and products that infringe and/or perform processes that infringe one or more claims of the '115 patent.

18. Each Defendant sells at least one application that has a means for inputting personal data related to an individual.

19. Each Defendant sells at least one application that has a barcode means for inputting data identifying at least one food product which a shopper has selected, specified, purchased, or consumed.

20. Each Defendant sells at least one application that has a processor means under the control of a prestored computer program for correlating the personal data with prestored nutritional data, including a barcode address, pertinent to at least one food product which the shopper has selected, specified, purchased, or consumed.

21. Each Defendant sells at least one application that has a means for outputting information pertinent to at least one food product and the personal data of the individual.

22. The Plaintiff has suffered damages because of Defendant's infringement of the '115 patent.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully requests that this Court enter judgment for the Plaintiff and against each Defendant as follows:

- a) An adjudication that Defendant has infringed the '115 patent;
- b) An award of damages to be paid by Defendant adequate to compensate the Plaintiff for Defendant's infringement of the above Patents, including a reasonable royalty, interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- c) For such other and further relief authorized by statute or deemed just and appropriate by this Court.

Dated this 19th day of May, 2014.

HUNTSMAN LAW GROUP, PLLC
By /s/ Robert A. Huntsman
Robert A. Huntsman
Attorney for Plaintiff